



Bolivia

Country Reports on Human Rights Practices - [2004](#)

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Bolivia is a constitutional, multiparty democracy with an elected president and bicameral legislature; the country has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. On October 17, 2003, protesters forced President Gonzalo Sanchez de Lozada, who been elected in free and fair elections in August 2002, to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order. Mesa appointed a non-political cabinet and promised to revise the Constitution through a constituent assembly. The Constitution provides for an independent judiciary; however, the judiciary suffered from corruption, inefficiency, and political manipulation.

The National Police has responsibility for internal security. The military is responsible for external security but also has domestic responsibilities. The Judicial Technical Police (PTJ) conduct investigations for common crimes (cases that do not involve narcotics); the police provide security for coca eradication work crews in the Chapare region; the Special Counternarcotics Force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities maintained effective control over the security forces. Some members of the security forces committed human rights abuses.

The country has a market-oriented economy that continued to be affected by social unrest and corruption. Approximately 65 percent of the population of 8.5 million lived below the poverty line. The country is rich in minerals and hydrocarbons; however, most workers were engaged in traditional agriculture or self-employed in the informal sector, and many citizens were barely linked to the cash economy. During the year, the economy grew by approximately 3.5 percent. Wages and benefits did not keep pace with inflation. The Government remained heavily dependent on foreign assistance to finance development projects.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The human rights situation improved compared to the previous year, and the country held its first national referendum in many decades. Security forces killed at least three persons and injured dozens of protesters during episodes of violent social unrest. Three members of the security forces also were killed and dozens of others injured during social demonstrations or while enforcing coca eradication policies. There were credible reports of abuses by security forces, including use of excessive force, extortion, and improper arrests. There were reports that military conscripts were mistreated. Prison conditions were harsh, and violence in prisons was a problem. There were credible reports of arbitrary arrest and detention. Prolonged detention remained a problem. The Government continued to implement a new Public Ministry Law to adapt the prosecutorial function of the judicial system to the requirements of the Code of Criminal Procedures (CCP). Other problems included pervasive domestic violence and discrimination against women, abuse of children, trafficking in persons, discrimination against and abuse of indigenous people, and discrimination against Afro-Bolivians and persons because of their sexual orientation. Child labor and brutal working conditions in the mining industry were serious problems.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of politically motivated killings committed by government agents; however, there were problems in some areas. Security forces killed at least three protesters and injured dozens of others during violent demonstrations (see Section 2.b.).

On September 28, in the Bustillos area of the Chapare, inside the Isiboro Secure nature reserve, approximately 300-350 coca growers (cocaleros), including women and children, attacked members of the Joint Eradication Task Force (FTC) who were preparing to eradicate illegal coca plants inside the park. During the previous days, the cocaleros had laid siege to the FTC camp and employed pressure tactics such as digging trenches and felling trees to dissuade the FTC from completing its assignment. The cocaleros attacked the security forces with dynamite, some firearms, and potentially lethal slings. The police in the FTC fired tear gas and responded according to the sequence prescribed in its rules of engagement. Nevertheless, the confrontation escalated, and a gunshot killed cocalero Juan Colque. Two boys claimed they saw a soldier shoot Colque, but this

was not confirmed. On October 14, Genaro Canaviri also died of a bullet wound that he sustained in a morning confrontation with security forces, in which a number of civilians and members of the security forces also were injured. The Human Rights Ombudsman Representative in the Chapare, the Public Ministry, and the military launched investigations into both killings. The Government agreed to compensate the families of the two dead coca growers and negotiated an agreement with cocaleros to allow 3,200 hectares of coca to be exempt from eradication until a legal study of market consumption for the coca leaf has been completed.

On December 20, at the El Paila ranch, in Santa Cruz Department, Medrin Colque Mollo was killed by a gunshot, presumably fired by police, during a confrontation between more than 100 squatters and security forces who sought to remove the squatters from private land they had occupied for more than 2 years. Eleven other persons, including four policemen, were injured. Central Government and departmental authorities launched an investigation, which was pending at year's end.

Public Ministry investigations continued into the events of February 2003 that left 33 people dead and some 200 injured and into the October 2003 events that left 56-80 persons dead and more than 400 injured. On October 14, the Congress authorized the Supreme Court to try former President Sanchez de Lozada and 15 members of his Cabinet for their role in the October violence.

There has been no progress in the January 2003 shooting death of coca grower Willy Hinojosa in the Chapare. The Public Ministry investigation remained pending at year's end.

There were no significant developments and none expected in the 2002 killing in Sinahota, Chapare, of Marcos Ortiz Llanos, who allegedly was shot by soldiers from the now-disbanded Chapare Expedition Force (FEC) during a cocalero demonstration.

There were several deaths due to violence in the prisons during the year (see Section 1.c.).

While the investigation remained open, there were no significant developments and none were expected in the 2001 killing of Casimiro Huanca Coloque, a leader in the Chimore Coca Growers Federation, during a confrontation between the FEC and cocalero protesters. A military court and the Public Ministry had concluded earlier that there was insufficient evidence to charge the FEC soldier who had fired the shot.

The Government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths resulted in a perception of impunity. However, on December 17, Congress appointed a new Attorney General and filled longstanding vacancies on the Supreme Court and the Judicial Council. The Congressional Human Rights Committee, the Ombudsman's office, the Vice Ministry of Justice and its Directorate of Human Rights, and nongovernmental organizations (NGOs) continued to press the Government to expedite action in the cases.

On February 27, in Santa Cruz, prosecutor Monica von Borries was killed when a bomb planted in her car by unknown persons, exploded. Police suspected Marco Marino Diodato, a dangerous narcotics trafficker who had escaped earlier from prison. The Attorney General's office was investigating the case, and several arrests and indictments have been made.

There were fewer reports of killings of government security forces by nongovernmental actors compared with the previous year. On June 6, in the town of San Pablo, 200 soldiers escorted police in an operation to clear roadblocks with explicit orders to carry only non-lethal equipment. The security forces walked into a well-planned ambush by armed attackers and were unable to properly defend themselves. An officer, Saul Coronado, was killed, and 27 soldiers were injured. Two peasants, Hernan Masay and Eddy Argmon, also were killed, but preliminary ballistics and forensic analyses indicated that small caliber bullets of the type used by the ambushers had caused their wounds. Military and civilian authorities were still investigating the incident at year's end.

On March 30, disgruntled miner Eustaquio Picachuri, who had entered the National Congress with dynamite strapped to his body, blew himself up, killing policemen Marvel Flores and Rene Amurrio and injuring 11 bystanders.

Investigations continued into the numerous booby trap and sniping incidents in the Chapare in 2003 that killed or injured security personnel eradicating illegal coca plants.

There was no significant progress and none was in the 2002 case of the deaths of four men at Sindicato Los Yukis. The Attorney General's investigation continued at year's end.

There were several reported cases of alleged criminals beaten, lynched, or burned by civilians, sometimes resulting in death. For example, on June 15, the townspeople of Ayo Ayo lynched and burned mayor Benjamin Altamirano. Several arrests were made, and the Public Ministry was investigating the incident at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and the Government generally respected these provisions; however, there were a number of allegations of beatings and abuse by members of the security forces.

For example, during the year, the Chimore Center for Justice and Human Rights (CCJHR), which was converted into an Integrated Justice Center, received 8 complaints from a total of 15 civilians that security forces either had abused them or stolen their property. Cases were not formally filed with the Public Ministry but instead were referred for action to the Police Office of Professional Responsibility.

Spanish citizen Francisco Javier Villanueva alleged that he was tortured by Santa Cruz police following his April arrest in connection with the February car bombing and murder of State Prosecutor Monica Von Borries (see Section 1.a.). Villanueva, who remained under arrest in Palmasola prison, claimed that he had been abducted by plainclothes policemen and subjected to beatings, electric shocks, suffocation, near drowning, and death threats at an undisclosed location. Amnesty International and other NGOs claimed that medical evidence supported his assertion and protested the case. However, eyewitnesses stated that Villanueva had aggressively resisted police when he was arrested with a warrant and that he was injured while being forcibly restrained. A Public Ministry investigation was pending at year's end.

No significant progress was made in the January 2003 injuring of two coca growers, during a protest at Cruce Vueltaero or in the January 2003 beating cases of Gabina Contreras and her husband Crecencio Espinosa near Santa Rosa, allegedly by army soldiers. The latter case remained under investigation at year's end.

Security forces clashed with demonstrators on several occasions during the year, resulting in the deaths of three to five demonstrators and dozens of injuries (see Section 2.b.). At least some of the injuries were attributed to tear gas canisters, rubber bullets, and live ammunition used by the security forces. Investigations into these incidents were pending at year's end.

The Public Ministry continued its investigation into allegations that security officials beat cocalero leaders whom they detained in Sacaba during the disturbances in 2002 and that they beat other civilians to try to learn the names of those responsible for security officers' deaths.

There also were credible allegations that military commissioned officers and NCOs beat and otherwise mistreated military conscripts.

Indigenous communities in areas with little or no central government presence imposed punishment that reportedly included the death penalty for members who violated traditional laws or rules, although the Constitution prohibits the death penalty (see Section 5).

Prison conditions were harsh. Prisons were overcrowded and in poor condition. Escapes were frequent, including that of Marco Marino Diodato, a dangerous criminal charged with murder and narcotics crimes, who fled while receiving medical treatment. With the exception of the maximum-security prison of Chonchocoro in El Alto, government authorities effectively controlled only the outer security perimeter of each prison. Inside prison walls, prisoners usually maintained control, and criminal gangs operated from their cells without hindrance. Violence between prisoners and, in some cases, the involvement of prison officials in violence against prisoners were problems. Corruption was a problem among low-ranking and poorly paid guards and prison wardens. The number of persons held in detention centers, intended to hold persons prior to the completion of their trials and sentencing, significantly decreased due to provisions in the new CCP.

According to the Director General of the Penal System in the Ministry of Government, as of October, there were 6,768 prisoners (821 women and 5,947 men) in facilities designed to hold 4,700 prisoners.

A prisoner's wealth may determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Cell prices reportedly were paid to prior occupants or to prisoners who controlled cellblocks. Although only children up to 6 years old were supposed to live with an incarcerated parent, children as old as 12 lived with their fathers in San Pedro prison. In October, there were approximately 730 children living with a parent in prison, as an alternative to being left homeless. The standard prison diet could cause anemia. The government's daily budget for a prisoner's food was \$0.41 (3.3 bolivianos), and prisoners who could afford to do so supplemented the standard prison diet by buying food. Food and conditions at the almost empty Chimore detention facility were better than elsewhere. There was no adequate health care within the prisons, and it was difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons, as in the case of Colombian National Liberation Army (ELN) suspect Francisco "Pacho" Cortes who was moved from Chonchocoro to San Pedro Prison. Inmates who could pay had access to drugs and alcohol.

There were no significant developments in the case of Mauricio "Chichuriru" Suarez who was found dead in his cell in Chonchocoro prison under mysterious circumstances in 2003. Other inmates were suspected in his death, but the case remained under investigation.

There are separate prisons for women, except for Morros Blancos prison in Tarija, where both men and women were incarcerated. Conditions for female inmates were similar to those for men; however, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

There were 706 convicted juvenile (under the age of 21) prisoners who were not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by independent human rights observers and news media representatives, and such visits took place during the year.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations, which occurred during the year. Several senior police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. However, prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they rely on the PTJ to investigate their own officers.

Arrests were carried out openly, but there were credible reports of arbitrary arrest and detention. The CCP requires an arrest warrant, and the police must inform the prosecutor of an arrest within 8 hours. The Constitution requires that a detainee must be presented before a judge within 24 hours. The CCP provides that within this 24-hour period a prosecutor must obtain a judge's determination as to the appropriateness of continued pre-trial detention or release on bail, and the judge must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest; however, credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

Many prisoners still awaited either trial or sentencing, but the courts provided release on bail for some prisoners. Judges have the authority to order preventive detention for suspects under arrest deemed to be a flight risk or for obstruction of justice. If a suspect is not detained, a judge may order significant restrictions on the suspect's travel.

Prisoners could see a lawyer, but approximately 70 percent could not afford legal counsel, and public defenders were overburdened (see Section 1.e.).

Approximately 2,090 people have been trained in the new CCP, including judges, prosecutors, public defenders and police. Training for police and prosecutors included safeguarding human rights during criminal investigations.

Denial of justice through prolonged detention remained a problem, although the CCP provides that a detainee cannot be held for longer than 18 months awaiting trial and sentencing (see Section 1.e.). If the process is not completed in 18 months, the detainee may request release by a judge; however, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures kept some persons incarcerated for months before trial.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their protection, on the orders of a social worker. There is no judicial review of such orders (see Section 5).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, corruption and inefficiency in the judicial system remained major problems. Poor pay and working conditions made judges and prosecutors susceptible to bribes.

The judicial system has three levels of courts: Trial Court, Superior Court, and the Supreme Court or Constitutional Tribunal. The Supreme Court hears appeals in general, while the Constitutional Tribunal only hears appeals on constitutional issues.

The CCP provides for a system of transparent oral trials in criminal trials; requires that no pretrial detention exceed 18 months; provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed; and mandates a 3-year maximum duration for a trial.

The law provides that the prosecutor is in charge of the investigative stage of a case. The prosecutor instructs the police what witness statements and evidence are needed to prosecute the case. Counternarcotics prosecutors lead the investigation of narcotics cases. The prosecutor tries misdemeanor cases (with possible sentences of less than 4 years) before a judge of instruction and felony cases (with possible sentences of more than 4 years) before sentencing courts, each of which features a five-member panel that includes three citizen members and two professional judges.

Superior court review is restricted to a review of the application of the law. Supreme Court review, the third stage, is restricted to cases involving exceptional circumstances. During the Superior Court and Supreme Court reviews, the courts may confirm, reduce, increase, or annul sentences or provide alternatives not contemplated in lower courts.

Defendants have constitutional rights to a presumption of innocence, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, and to appeal judicial decisions. In practice, almost none of these rights were protected systematically, although the CCP facilitated more efficient investigations, transparent oral trials, and credible verdicts.

The National Public Defense Service has been established to provide indigent defendants with a defense attorney at public expense. However, budget shortages led to reducing the Service's staff to 54 public defenders and 9 legal assistants, and there was a particular shortage of public defenders in rural areas.

The CCP also recognizes the conflict resolution (community justice) traditions of indigenous communities, provided that the resolution does not conflict with the rights and guarantees established under the Constitution.

The Judicial Council oversees the disciplinary aspects of the judicial process and provides an impartial body to review the actions of judges. Its powers include the authority to conduct administrative investigations and to censure for malpractice judges at all levels found culpable of malfeasance; however, the dismissal of a superior court or higher level judge requires a final judgment and sentence of conviction in a criminal case tried before the Supreme Court. The Council may suspend without pay, for up to 13 months, judges against whom a criminal charge has been filed or against whom a disciplinary process has been initiated.

The military justice system generally was susceptible to senior level influence and tended to avoid rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report of the findings. The results of the findings are forwarded to a judicial advisor, usually at the division level, who then recommends a finding of either innocence or guilt. For major infractions, the case is forwarded to a military court. Authorities recognized conflicts over military and civilian jurisdiction in certain cases involving human rights. On May 7, the Constitutional Court overturned an earlier decision by the La Paz District Court in favor of re-trying in civil courts four military officers accused in deaths of two civilians and injuring another in February 2003. This decision set a precedent for trying military personnel in civilian courts in human rights cases involving the military and civilians. During the year, the armed forces benefited from international training on human rights and worked to reform its Military Code.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were credible allegations of security forces involved in thefts of property. Residents in the coca growing areas generally were reluctant to file and pursue formal complaints against security forces. Those who were engaged in alternative development activities were also reluctant to pursue formal complaints against coca growers because of fear of reprisals by the coca syndicates.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, there were limitations on freedom of speech. Newspapers were privately owned and frequently adopted antigovernment positions. State-owned and private radio and television stations generally operated freely; however, there were instances when journalists were threatened, injured, or held hostage by private individuals or groups critical of their reports.

La Patria journalist Carmen Torres received death threats from members of the Inti Wara Wassi community, near Oruro, for having exposed the trafficking of wild animals. Police on occasion forcibly expelled reporters covering the news.

The Penal Code provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from 1 month to 2 years. If the insults are directed against the President, Vice President, or a minister, the sentence may be increased by one-half. Allegations that journalists have violated the Constitution or citizens' rights are referred to the 40-person Press Tribunal, an independent body authorized to evaluate journalists' practices. On January 21, in the first judgment rendered since its creation in 1929, the Tribunal found a reporter not guilty of charges that he caused injuries and defamation.

The Government prohibited the importation of pornographic books, magazines, and artwork.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association

The law provides for the right of peaceful assembly, and the authorities generally respected this right in practice; however, security forces killed at least two persons and injured dozens of others during episodes of violent social unrest (see Section 1.a. and 1.c.).

The law provides for freedom of association, and the authorities generally respected this right in practice. The Government requires NGOs to register with the appropriate departmental government, but compliance was lax and authorities granted such registration easily.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. The Roman Catholic Church received support from the Government (approximately 300 priests received small stipends) and exercised a limited degree of political influence.

Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. The Ministry is not allowed to deny registration based on an organization's articles of faith, but the legal process can be time-consuming and expensive, leading some groups to forgo registration and operate informally without certain tax and customs benefits. Most registered religious groups were identified as Protestant or evangelical. No overt acts of societal violence were reported against Jewish people; however, one Jewish group voiced its concern over "skin head" groups who were disseminating anti-Semitic hate mail on the Internet.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. However, protesters blocked major highways at various times at different locations throughout the country. Blockades in Desaguadero and permanent check points by coca growers in La Asunta caused considerable economic damage. Although the Government did not revoke citizenship for political or other reasons, many Bolivian citizens lacked basic identity documents, which prevented them from obtaining international travel documents.

The Constitution prohibits forced exile of citizens, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers; however, at year's end, the Government had not accepted any of the 22 persons who applied for refugee status, in part, because of red tape and delays associated with the process.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. However, many citizens lacked identity documents necessary to vote. Political parties ranging from far left to moderate right functioned openly. Elections for national offices and municipal governments are held every 5 years.

In August 2002, Gonzalo Sanchez de Lozada of the centrist Nationalist Revolutionary Movement assumed the presidency after he was elected in a joint session of the Congress following the June 2002 national election. Although there were some allegations of vote-counting irregularities, most observers, including a mission from the Organization of American States, concluded that the elections were free and fair. On October 17, 2003, opposition protesters, including radical union and other dissidents and indigenous peasants (some of them coerced into protesting), forced President Sanchez de Lozada to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order.

The National Electoral Court (CNE) and its lower departmental courts oversee the electoral process, including voter registration, tabulation, and certification of ballots. The CNE selects departmental electoral court members, and Congress chooses head departmental electoral members. On July 4, Congress enacted a law to permit small citizen and indigenous groups that meet certain criteria to participate in the municipal elections. On July 18, a majority of eligible voters participated in a peaceful and orderly national referendum on gas.

In addition to frequent complaints of corruption in the justice system, there was a high profile case of corruption involving former Minister of Government, Yerko Kukoc, who received a 2-year suspended prison sentence for wrongful use of government funds. There also were nepotism scandals in Congress and corruption cases involving senior police officials, most of whom were fired. NGOs involved in land takeovers and disputes were also suspected of illegal gain.

There was no specific information available on laws providing access to government information or whether the Government provided such access in practice.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership. The law requires that every third candidate on party candidate lists be female. In addition, every other candidate on municipal election ballots, beginning with the second candidate, must be a woman--a requirement that increased female representation to approximately 30 percent of municipal council positions. There were 31 women among the 157 deputies and senators, 4 women among the 45 vice ministers, and 2 women in the 18-member Cabinet. There were no indigenous members of the Cabinet, and the number of indigenous members of the Chamber of Deputies was estimated at 25 percent--a figure difficult to confirm, since designation as indigenous is self-declared.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, NGOs and the Ombudsman complained that occasionally government security forces and ministries refused to cooperate with investigations conducted by the NGOs or the Ombudsman. Security forces continued to provide credible evidence that radical groups used some NGOs as a cover for subversive activities. For example, in April 2003, police in El Alto arrested Colombian ELN suspect Francisco "Pacho" Cortes, who was posing as a human rights worker. Cortes and two companions possessed narcotics, seditious material, weapons, and bomb-making equipment.

The Human Rights Ombudsman is a position with a 5-year term established in the Constitution. Congress chooses the Ombudsman, who is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the Government. Indigenous persons filed most of the complaints received by the Ombudsman. The congressional Human Rights Committee investigated alleged human rights abuses committed in 2003, including those in the Chapare and those related to the events of the February 12-13 and the September-October gas war. On October 14, the Congress voted to allow the Supreme Court to try former President Sanchez de Lozada and his former 15 cabinet members for the events of October 2003. The Public Ministry was also investigating the October and February 2003 events.

The CCJHR continued to be active in the Chapare region and moved to expand its role as an "Integrated Justice Center" to include conflict resolution. It reported its findings to the Vice Ministry of Justice in the Ministry of the Presidency, disseminated human rights information, accepted complaints of abuses committed, kept records, and referred complaints to the Public Ministry. The CCJHR also housed a medical forensic expert and an investigative staff to review complaints.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, sex, language, political or other opinion, origin, or economic or social condition; however, there was significant discrimination against women, indigenous people, and the small Afro-Bolivian minority.

Women

Violence against women was a pervasive and underreported problem. According to the Center for the Information and Development of the Woman (CIDEM), women made 86 percent of the 22,039 complaints of physical, psychological, and sexual abuse reported to the Family Protection Brigades or municipal legal services in the major cities of La Paz, Santa Cruz, Tarija, Sucre, Oruro, Potosi, Trinidad, Cochabamba, and El Alto between January and August. CIDEM noted that the statistics "did not reflect the full magnitude of the problem of violence against women" and that "a great number of women" did not report the aggression they faced on a daily basis.

The family laws prohibiting mental, physical, and sexual violence provided penalties of fines or up to 4 days in jail, unless the case becomes a public crime subject to the Penal Code; however, these laws were enforced irregularly. The Government took few meaningful or concrete steps to combat domestic violence.

Rape also was a serious but underreported problem. The Law on Domestic and Family Violence makes the rape of an adult a public crime; however, the victim must press charges. The law criminalizes statutory rape, with penalties of 10 to 20 years for the rape of a child under the age of 14, 2 to 6 years for the statutory rape of a person from 14 to 18 years of age, and 5 to 20 years for forcible rape of a child. Forcible rape of an adult is punished by sentences ranging from 4 to 10 years' imprisonment. The CCP provides that crimes against adults included in previous laws on sex crimes may be made public crimes; however, the victim still must testify. Sexual crimes against minors automatically are considered public crimes in which the state presses charges.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor (see Section 5, Trafficking).

The CCP considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but it generally was acknowledged to be widespread.

Legal services offices devoted to family and women's rights operated throughout the country. The Maternal and Infant Health Insurance Program provided health services, focused on maternal and infant health, to women of reproductive age and to children under the age of 5.

Women enjoyed the same legal rights as men; however, many women were unaware of their legal rights, although the Government sponsored seminars on women's legal rights. The Vice Ministry of Women in the Ministry of Sustainable Development has responsibility to ensure the legal rights of women. Women generally did not enjoy a social status equal to that of men. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas, for instance, traditional practices restricting land inheritance for women remained a problem. The minimum wage law treats men and women equally; however, women generally earned less than men did for equal work. Women sometimes complained that employers were reluctant to hire them because of the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas, in rural areas, the vast majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the informal economy. For the first time, a woman, Lieutenant Colonel Gina Reque Teran, assumed command of a major army unit.

Leading women's rights groups included the Campesinas of Bolivia Bartolina Sisa, which focuses on rural indigenous women, and CIDEM.

Children

The Government did not give the situation of children sufficient political priority to improve conditions appreciably. The Code for Boys, Girls, and Adolescents establishes the rights of children and adolescents, regulates adoptions, and protects against exploitative child labor and violence against children; however, resource constraints impeded full implementation of this law. There are seven Defender of Children and Adolescents offices to protect children's rights and interests.

Public schooling was provided up to age 17 or grade eight; the law requires all children to complete at least 5 years of primary school; and primary education was free and universal. However, enforcement of the education law was lax, particularly in rural areas, where more than half of the primary schools offered only three of eight grades. An estimated 50 percent of children completed primary school, and an estimated 26 percent graduated from high school. There were no significant gender differences in access to basic education, although girls continued to drop out at a higher rate than boys, particularly in the rural areas.

Medical care is free up to age 5, and was no apparent difference in such access based on gender. After age 5, "pilot centers" offered subsidized health care, although, in rural areas, clinics often were not available. In rural settings, when required to pay medical costs, families often gave preference to treating boys. Many children, particularly from rural areas, lacked birth certificates and the identity documents they needed to secure social benefits and protection. The Government made some progress in implementing its plan to provide these documents free of charge.

Physical and psychological abuse in the home was a serious problem. Corporal punishment and verbal abuse were common in schools. Children from 11 to 16 years of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. UNICEF estimated that approximately 13,000 children lived in institutions where their basic rights were not respected. There also were many children living on the streets of major cities.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries (See Section 5, Trafficking).

Child labor was a serious problem (see Section 6.d.).

Several NGOs had active programs to combat child prostitution. The Government's plan to combat child labor included a public information campaign against child prostitution and raids against brothels.

Trafficking in Persons

The law prohibits trafficking in persons for sexual exploitation; however, there were credible reports that persons were trafficked within, from, and through the country.

The Law for the Protection of the Victims of Crimes Against Sexual Freedom specifically criminalizes trafficking in persons for the purpose of prostitution and provides for terms of imprisonment beginning at 4 years and ranging up to 12 years when the

victim is less than 14 years of age. There were some arrests under this statute. While there was no complete information available on convictions of traffickers, the National Police reported 18 convictions in 2003 under the Corruption of Youth Law, which covers trafficking of minors for prostitution.

The Ministry of Government, including the National Police and Immigration, as well as the Ministries of Foreign Affairs, Labor, Defense, and the Vice Ministry for Youth, the Child, and the Elderly, were responsible for anti-trafficking efforts.

The country is a source for men, women, and children trafficked for forced labor and sexual exploitation to neighboring countries such as Argentina, Chile, Brazil, Spain, and the United States; however, there were no reliable estimates on the extent of the trafficking. Faced with extreme poverty, many citizens were economic migrants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, particularly from indigenous ethnic groups in the altiplano region, were at greater risk of being victimized. Children were trafficked within the country to work in prostitution, mines, domestic servitude, and agriculture, particularly harvesting sugar cane. Weak controls along its extensive five borders made the country an easier transit point for illegal migrants, some of whom may have been trafficked. Commercial sexual exploitation of children was a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims initially were willing economic migrants who were duped or later coerced into accepting jobs that turned out to be forced labor.

Some government officials reportedly took bribes to facilitate smuggling and the illegal movement of people; however, the Government did not condone or facilitate trafficking and removed at least 19 immigration officials on suspicion of corruption. It was not known whether any of those dismissed were accused of involvement with trafficking. The Government also took measures, such as instituting a system of checks and balances at official border crossings and airports, to reduce corruption among judicial officials responsible for authorizing unaccompanied travel abroad of those under age 18.

The Government promoted some educational measures to address trafficking, and Vice Ministry for Youth, the Child, and the Elderly conducted informational campaigns on the rights of children and women. The Government, in conjunction with UNICEF, provided free birth and identity documents to thousands of undocumented citizens, to reduce their vulnerability to being trafficked.

The Defenders of Children offices in municipalities, sometimes in cooperation with NGOs, managed scattered assistance programs for victims.

The NGO Terre des Hommes conducted public awareness campaigns on trafficking of children.

Persons with Disabilities

There was no official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. However, societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. The Law on Disabilities requires wheelchair access to all public and private buildings, duty free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille. A National Committee for Incapacitated Persons was mandated to oversee the law's enforcement and to channel and supervise programs and donations for persons with disabilities; however, there was little information on its effectiveness. The electoral law requires accommodation for blind voters; however, in general, there were no special services or infrastructure to accommodate persons with disabilities. On May 6, the President issued a Supreme Decree that requires that 4 percent of the government's new hires be persons with disabilities.

National/Racial/Ethnic Minorities

There was societal discrimination against the small Afro Bolivian minority, who generally remained at the low end of the socioeconomic scale and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 25,000 Afro-Bolivians live in the Yungas region of the Department of La Paz.

Indigenous People

In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. Indigenous protesters were major protagonists in the events leading up to the October 2003 resignation of President Sanchez de Lozada. The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. The Government and indigenous leaders jointly developed provisions of this law. However, the issue of land, specifically the Agrarian Reform Law, was a continuing source of complaints and protests by indigenous people. Indigenous people complained that some of their territories were not defined legally or protected and that outsiders exploited their resources. Indigenous peasants illegally occupied several private properties belonging mostly to former government officials, often with the backing of the NGO Landless Movement.

Indigenous groups availed of the Popular Participation Law to form municipalities that offered them greater opportunities for self determination. Two political parties and a number of NGOs were active in promoting the rights of indigenous peoples. The CCP recognizes the conflict resolution traditions of indigenous communities (see Section 1.e.). On June 15, mayor Benjamin Altamirano was lynched and burned by the indigenous townspeople of Ayo Ayo in an incident that some claimed was tribal justice (see Section 1.a.).

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide that workers have the right to form trade unions; however, inefficient labor courts and inadequate government regulation at times limited the exercise of this right by workers. Approximately 25 percent of the workers in the formal economy--which employed approximately 30 percent of all workers--belonged to unions.

Workers may form a union in any private company of 20 or more employees; however, an estimated 70 percent of workers were employed in micro or small enterprises with fewer than 20 employees. Public sector workers also have the right to form a union. The Labor Code requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the Government to dissolve unions by administrative fiat.

Labor laws intended to protect workers' rights to freedom of association and to form and join trade unions were inadequate. They did not deter employers from retaliating against workers and do not protect workers against interference by employers with the workers' right of association. Complaints of anti-union discrimination go to the National Labor Court, which can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders said that problems were often moot by the time the court ruled.

b. The Right to Organize and Bargain Collectively

The Constitution and the Labor Code provide workers with the right to organize and bargain collectively; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, was limited. Most collective bargaining agreements were restricted to wages and excluded other conditions.

The Labor Code provides for the right to strike but requires unions to revert to government mediation before beginning a strike and employers to do likewise before initiating a lockout. The practice of direct employee-management negotiations in individual enterprises expanded.

There were numerous strikes organized by a variety of different sectors. In June, the COB called for an indefinite strike to pressure the Government, but most groups did not participate.

The Labor Code bans strikes in public services, including banks and public markets; however, workers in the public sector frequently did strike, with strikes by teachers, and transportation and health care workers the most common. Public sector employees have not been penalized for strike activities in recent years. Solidarity strikes are illegal, but the Government neither prosecuted nor imposed penalties in such cases.

Labor law and practice in the seven special duty-free zones are the same as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers (see Sections 5 and 6.d.). Three reports issued during the year by the International Labor Organization (ILO) and UNICEF on the worst forms of child labor and violence against children and adolescents implied that the abuses and lack of payment of wages constituted forced labor in the agriculture, mining, and other sectors, because entire families worked in these activities and children usually were unaware of their wages.

Trafficking of women and children was a problem (see Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

Child labor was a serious problem. The law prohibits all work for payment by children under the age of 14; however, in practice, the Ministry of Labor generally did not enforce child labor laws, including those pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for 12- to 14-year olds under various formal but poorly enforced restrictions, which have been criticized by the ILO and were considered by some to be tantamount to bondage (see Section 6.c.). In June 2003, the country ratified ILO Convention 182 on

the Worst Forms of Child Labor.

Approximately one in every four children between the ages of 7 and 14 was employed in some way, usually in uncontrolled and sometimes unhealthy conditions. UNICEF estimated that 800,000 children were engaged in some type of work. Although the Code of Childhood and Adolescence bars persons under 18 years of age from work in the sugarcane fields, approximately 10,000 rural migrant children worked in this activity. The 2004 ILO/UNICEF study of the sugarcane harvest entitled "Sweet Cane, Bitter Life" characterized it as one of the worst forms of child labor, in part, because 90 percent of the children engaged in this activity did not attend school and worked up to 12 hours per day, often under unhealthy or dangerous conditions. Despite government and company efforts to dissuade child labor, extreme poverty underlay the need of many families to have their children work.

The Labor Ministry is responsible for enforcing child labor provisions but did not enforce them throughout the country. The Government reported that approximately 800,000 children and adolescents between the ages of 7 and 19 were engaged in some type of work. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mines and other dangerous occupations in the informal sector. Narcotics traffickers used children to transport drugs. Child prostitution remained a problem (see Section 5).

The traditional practice of "criadito" service persisted in some parts of the country. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. Such work is illegal, and there were no controls over the benefits to, or treatment of, such children.

The Labor Ministry is responsible for enforcing child labor provisions but did not enforce them throughout the country. The Government devoted minimal resources to investigating child labor cases, but NGOs and international organizations, such as UNICEF, supplemented the government's efforts.

The Government continued its efforts to eliminate child labor in its worst forms, in particular, working with NGOs to discourage the use of child labor in the mining and sugar sectors by participating in internationally funded programs to provide educational alternatives to children who otherwise would work in mines or in sugarcane fields.

e. Acceptable Conditions of Work

The Government established the minimum wage for the public and private sectors by supreme decree following traditional negotiation with the COB. The wage of \$ 55 (440 bolivianos) per month plus bonuses and fringe benefits did not increase from the previous year. The minimum wage did not provide a decent standard of living for a worker and family, and most formal sector workers earned more, although many informal sector workers earned less. Although the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. The minimum wage did not cover the large number of workers in the informal sector

The law, which was not effectively enforced, establishes an 8-hour workday and a maximum workweek of 48 hours, limits women to a workday 1 hour shorter than that of men, prohibits women from working at night, mandates rest periods, and requires premium pay for work above a standard workweek. The Labor Ministry's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards were enforced poorly. Many workers died due to unsafe conditions. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards. The Labor Ministry maintained a hotline for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector particularly were poor. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, were dangerous and unhealthy. In some mines operated as cooperatives, miners earned less than \$2.75 (22 bolivianos) per 12-hour day. Miners in such cooperatives worked in dangerous, unhealthy conditions with no scheduled rest periods for long periods. The law does not specify when workers may remove themselves from dangerous situations.